

and Development Program Scientific Advisory Board be submitted not later than Mar. 15, 1992.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 173—ENERGY SECURITY

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AMENDMENTS

2011—Pub. L. 111-383, div. A, title X, §1075(b)(47), Jan. 7, 2011, 124 Stat. 4371, inserted “Sec.” above “2911”.

SUBCHAPTER I—ENERGY SECURITY ACTIVITIES

Sec.	
2911.	Energy performance goals and master plan for the Department of Defense.
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AMENDMENTS

2011—Pub. L. 111-383, div. B, title XXVIII, §2832(c)(2), Jan. 7, 2011, 124 Stat. 4470, added items 2911 and 2915 and struck out former items 2911 “Energy performance goals and plan for Department of Defense” and 2915 “New construction: use of renewable forms of energy and energy efficient products”.

2009—Pub. L. 111-84, div. B, title XXVIII, §2843(b), Oct. 28, 2009, 123 Stat. 2682, added item 2919.

§ 2911. Energy performance goals and master plan for the Department of Defense

(a) **ENERGY PERFORMANCE GOALS.**—(1) The Secretary of Defense shall submit to the congressional defense committees the energy performance goals for the Department of Defense regarding transportation systems, support systems, utilities, and infrastructure and facilities.

(2) The energy performance goals shall be submitted annually not later than the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31 and cover that fiscal year as well as the next five, 10, and 20 years. The Secretary shall identify changes to the energy performance goals since the previous submission.

(b) **ENERGY PERFORMANCE MASTER PLAN.**—(1) The Secretary of Defense shall develop a com-

prehensive master plan for the achievement of the energy performance goals of the Department of Defense, as set forth in laws, executive orders, and Department of Defense policies.

(2) The master plan shall include the following:

(A) A separate master plan, developed by each military department and Defense Agency, for the achievement of energy performance goals.

(B) The use of a baseline standard for the measurement of energy consumption by transportation systems, support systems, utilities, and facilities and infrastructure that is consistent for all of the military departments.

(C) A method of measurement of reductions or conservation in energy consumption that provides for the taking into account of changes in the current size of fleets, number of facilities, and overall square footage of facility plants.

(D) Metrics to track annual progress in meeting energy performance goals.

(E) A description of specific requirements, and proposed investments, in connection with the achievement of energy performance goals reflected in the budget of the President for each fiscal year (as submitted to Congress under section 1105(a) of title 31).

(3) Not later than 30 days after the date on which the budget of the President is submitted to Congress for a fiscal year under section 1105(a) of title 31, the Secretary shall submit the current version of the master plan to Congress.

(c) **SPECIAL CONSIDERATIONS.**—For the purpose of developing and implementing the energy performance goals and energy performance master plan, the Secretary of Defense shall consider at a minimum the following:

(1) Opportunities to reduce the current rate of consumption of energy.

(2) Opportunities to reduce the future demand and the requirements for the use of energy.

(3) Opportunities to implement conservation measures to improve the efficient use of energy.

(4) Opportunities to pursue alternative energy initiatives, including the use of alternative fuels and hybrid-electric drive in military vehicles and equipment.

(5) Opportunities for the high-performance construction, lease, operation, and maintenance of buildings.

(6) Cost effectiveness, cost savings, and net present value of alternatives.

(7) The value of diversification of types and sources of energy used.

(8) The value of economies-of-scale associated with fewer energy types used.

(9) The value of the use of renewable energy sources.

(10) The value of incorporating electric, hybrid-electric, and high efficiency vehicles into vehicle fleets.

(11) The potential for an action to serve as an incentive for members of the armed forces and civilian personnel to reduce energy consumption or adopt an improved energy performance measure.

(d) **SELECTION OF ENERGY CONSERVATION MEASURES.**—(1) For the purpose of implementing the

energy performance master plan, the Secretary of Defense shall provide that the selection of energy conservation measures, including energy efficient maintenance, shall be limited to those measures that—

- (A) are readily available;
- (B) demonstrate an economic return on the investment;
- (C) are consistent with the energy performance goals and energy performance master plan for the Department; and
- (D) are supported by the special considerations specified in subsection (c).

(2) In this subsection, the term “energy efficient maintenance” includes—

(A) the repair of military vehicles, equipment, or facility and infrastructure systems, such as lighting, heating, or cooling equipment or systems, or industrial processes, by replacement with technology that—

- (i) will achieve energy savings over the life-cycle of the equipment or system being repaired; and
- (ii) will meet the same end needs as the equipment or system being repaired; and

(B) improvements in an operation or maintenance process, such as improved training or improved controls, that result in energy savings.

(e) GOAL REGARDING USE OF RENEWABLE ENERGY TO MEET FACILITY ENERGY NEEDS.—(1) It shall be the goal of the Department of Defense—

(A) to produce or procure not less than 25 percent of the total quantity of facility energy it consumes within its facilities during fiscal year 2025 and each fiscal year thereafter from renewable energy sources; and

(B) to produce or procure facility energy from renewable energy sources whenever the use of such renewable energy sources is consistent with the energy performance goals and energy performance master plan for the Department and supported by the special considerations specified in subsection (c).

(2) In this subsection, the term “renewable energy source” means energy generated from renewable sources, including the following:

- (A) Solar.
- (B) Wind.
- (C) Biomass.
- (D) Landfill gas.
- (E) Ocean, including tidal, wave, current, and thermal.
- (F) Geothermal, including electricity and heat pumps.
- (G) Municipal solid waste.

(H) New hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project. For purposes of this subparagraph, hydroelectric generation capacity is “new” if it was placed in service on or after January 1, 1999.

(I) Thermal energy generated by any of the preceding sources.

(Added and amended Pub. L. 109–364, div. B, title XXVIII, §§ 2851(a)(1), 2852, Oct. 17, 2006, 120 Stat. 2489, 2496; Pub. L. 111–84, div. B, title XXVIII, § 2842, Oct. 28, 2009, 123 Stat. 2680; Pub. L. 111–383,

div. B, title XXVIII, §§ 2831, 2832(a), Jan. 7, 2011, 124 Stat. 4467, 4468.)

AMENDMENTS

2011—Pub. L. 111–383, § 2832(a)(3), substituted “Energy performance goals and master plan for the Department of Defense” for “Energy performance goals and plan for Department of Defense” in section catchline.

Pub. L. 111–383, § 2832(a)(2), substituted “master plan” for “plan” wherever appearing in subsecs. (c) to (e).

Subsec. (b). Pub. L. 111–383, § 2832(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary of Defense shall develop, and update as necessary, a comprehensive plan to help achieve the energy performance goals for the Department of Defense.”

Subsec. (c)(4). Pub. L. 111–383, § 2831(1), inserted “and hybrid-electric drive” after “alternative fuels”.

Subsec. (c)(5) to (11). Pub. L. 111–383, § 2831(2)–(5), added pars. (5) and (10) and redesignated former pars. (5) to (8) and (9) as (6) to (9) and (11), respectively.

2009—Subsec. (e). Pub. L. 111–84, § 2842(c), substituted “Facility Energy Needs” for “Electricity Needs” in heading.

Pub. L. 111–84, § 2842(a), (b), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), in par. (1)(A), substituted “facility energy” for “electric energy” and struck out “and in its activities” after “facilities” and “(as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)))” after “sources”, in par. (1)(B), substituted “facility energy” for “electric energy”, and added par. (2).

2006—Subsec. (e). Pub. L. 109–364, § 2852, added subsec. (e).

PILOT PROGRAM ON COLLABORATIVE ENERGY SECURITY

Pub. L. 111–383, div. A, title II, § 242, Jan. 7, 2011, 124 Stat. 4176, provided that:

“(a) PILOT PROGRAM.—The Secretary of Defense, in coordination with the Secretary of Energy, may carry out a collaborative energy security pilot program involving one or more partnerships between one military installation and one national laboratory, for the purpose of evaluating and validating secure, salable microgrid components and systems for deployment.

“(b) SELECTION OF MILITARY INSTALLATION AND NATIONAL LABORATORY.—If the Secretary of Defense carries out a pilot program under this section, the Secretary of Defense and the Secretary of Energy shall jointly select a military installation and a national laboratory for the purpose of carrying out the pilot program. In making such selections, the Secretaries shall consider each of the following:

“(1) A commitment to participate made by a military installation being considered for selection.

“(2) The findings and recommendations of relevant energy security assessments of military installations being considered for selection.

“(3) The availability of renewable energy sources at a military installation being considered for selection.

“(4) Potential synergies between the expertise and capabilities of a national laboratory being considered for selection and the infrastructure, interests, or other energy security needs of a military installation being considered for selection.

“(5) The effects of any utility tariffs, surcharges, or other considerations on the feasibility of enabling any excess electricity generated on a military installation being considered for selection to be sold or otherwise made available to the local community near the installation.

“(c) PROGRAM ELEMENTS.—A pilot program under this section shall be carried out as follows:

“(1) Under the pilot program, the Secretaries shall evaluate and validate the performance of new energy technologies that may be incorporated into operating environments.

“(2) The pilot program shall involve collaboration with the Office of Electricity Delivery and Energy

Reliability of the Department of Energy and other offices and agencies within the Department of Energy, as appropriate, and the Environmental Security Technical Certification Program of the Department of Defense.

“(3) Under the pilot program, the Secretary of Defense shall investigate opportunities for any excess electricity created for the military installation to be sold or otherwise made available to the local community near the installation.

“(4) The Secretary of Defense shall use the results of the pilot program as the basis for informing key performance parameters and validating energy components and designs that could be implemented in various military installations across the country and at forward operating bases.

“(5) The pilot program shall support the effort of the Secretary of Defense to use the military as a test bed to demonstrate innovative energy technologies.

“(d) IMPLEMENTATION AND DURATION.—If the Secretary of Defense carries out a pilot program under this section, such pilot program shall begin by not later than July 1, 2011, and shall be not less than three years in duration.

“(e) REPORTS.—

“(1) INITIAL REPORT.—If the Secretary of Defense carries out a pilot program under this section, the Secretary shall submit to the appropriate congressional committees by not later than October 1, 2011, an initial report that provides an update on the implementation of the pilot program, including an identification of the selected military installation and national laboratory partner and a description of technologies under evaluation.

“(2) FINAL REPORT.—Not later than 90 days after completion of a pilot program under this section, the Secretary shall submit to the appropriate congressional committees a report on the pilot program, including any findings and recommendations of the Secretary.

“(f) DEFINITIONS.—For purposes of this section:

“(1) The term ‘appropriate congressional committees’ means—

“(A) the Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Science and Technology of the House of Representatives; and

“(B) the Committee on Armed Services, the Committee on Energy and Natural Resources, and the Committee on Commerce, Science, and Transportation of the Senate.

“(2) The term ‘microgrid’ means an integrated energy system consisting of interconnected loads and distributed energy resources (including generators, energy storage devices, and smart controls) that can operate with the utility grid or in an intentional islanding mode.

“(3) The term ‘national laboratory’ means—

“(A) a national laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)); or

“(B) a national security laboratory (as defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)).”

ENERGY SECURITY ON DEPARTMENT OF DEFENSE INSTALLATIONS

Pub. L. 111–84, div. A, title III, § 335, Oct. 28, 2009, 123 Stat. 2259, provided that:

“(a) PLAN FOR ENERGY SECURITY REQUIRED.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall develop a plan for identifying and addressing areas in which the electricity needed to carry out critical military missions on Department of Defense installations is vulnerable to disruption.

“(2) ELEMENTS.—The plan developed under paragraph (1) shall include, at a minimum, the following:

“(A) An identification of the areas of vulnerability as described in paragraph (1), and an identi-

fication of priorities in addressing such areas of vulnerability.

“(B) A schedule for the actions to be taken by the Department to address such areas of vulnerability.

“(C) A strategy for working with other public or private sector entities to address such areas of vulnerability that are beyond the control of the Department.

“(D) An estimate of and consideration for the costs to the Department associated with implementation of the strategy.

“(b) WORK WITH NON-DEPARTMENT OF DEFENSE ENTITIES.—The Secretary of Defense shall work with other Federal entities, and with State and local government entities, to develop any regulations or other mechanisms needed to require or encourage actions to address areas of vulnerability identified pursuant to the plan developed under subsection (a) that are beyond the control of the Department of Defense.”

CONSIDERATION OF FUEL LOGISTICS SUPPORT REQUIREMENTS IN PLANNING, REQUIREMENTS DEVELOPMENT, AND ACQUISITION PROCESSES

Pub. L. 110–417, [div. A], title III, § 332, Oct. 14, 2008, 122 Stat. 4420, as amended by Pub. L. 111–383, div. A, title X, § 1075(e)(5), Jan. 7, 2011, 124 Stat. 4374, provided that:

“(a) PLANNING.—In the case of analyses and force planning processes that are used to establish capability requirements and inform acquisition decisions, the Secretary of Defense shall require that analyses and force planning processes consider the requirements for, and vulnerability of, fuel logistics.

“(b) CAPABILITY REQUIREMENTS DEVELOPMENT PROCESS.—The Secretary of Defense shall develop and implement a methodology to enable the implementation of a fuel efficiency key performance parameter in the requirements development process for the modification of existing or development of new fuel consuming systems.

“(c) ACQUISITION PROCESS.—The Secretary of Defense shall require that the life-cycle cost analysis for new capabilities include the fully burdened cost of fuel during analysis of alternatives and evaluation of alternatives and acquisition program design trades.

“(d) IMPLEMENTATION PLAN.—The Secretary of Defense shall prepare a plan for implementing the requirements of this section. The plan shall be completed not later than 180 days after the date of the enactment of this Act [Oct. 14, 2008] and provide for the implementation of the requirements by not later than three years after the date of the enactment of this Act.

“(e) PROGRESS REPORT.—Not later than two years after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing progress made to implement the requirements of this section, including an assessment of whether the implementation plan required by subsection (d) is being carried out on schedule.

“(f) NOTIFICATION OF COMPLIANCE.—As soon as practicable during the three-year period beginning on the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall notify the congressional defense committees that the Secretary has complied with the requirements of this section. If the Secretary is unable to provide the notification, the Secretary shall submit to the congressional defense committees at the end of the three-year period a report containing—

“(1) an explanation of the reasons why the requirements, or portions of the requirements, have not been implemented; and

“(2) a revised plan under subsection (d) to complete implementation or a rationale regarding why portions of the requirements cannot or should not be implemented.

“(g) FULLY BURDENED COST OF FUEL DEFINED.—In this section, the term ‘fully burdened cost of fuel’ means

the commodity price for fuel plus the total cost of all personnel and assets required to move and, when necessary, protect the fuel from the point at which the fuel is received from the commercial supplier to the point of use.”

MITIGATION OF POWER OUTAGE RISKS FOR DEPARTMENT OF DEFENSE FACILITIES AND ACTIVITIES

Pub. L. 110-417, [div. A], title III, § 335, Oct. 14, 2008, 122 Stat. 4422, provided that:

“(a) RISK ASSESSMENT.—The Secretary of Defense shall conduct a comprehensive technical and operational risk assessment of the risks posed to mission critical installations, facilities, and activities of the Department of Defense by extended power outages resulting from failure of the commercial electricity supply or grid and related infrastructure.

“(b) RISK MITIGATION PLANS.—

“(1) IN GENERAL.—The Secretary of Defense shall develop integrated prioritized plans to eliminate, reduce, or mitigate significant risks identified in the risk assessment under subsection (a).

“(2) ADDITIONAL CONSIDERATIONS.—In developing the risk mitigation plans under paragraph (1), the Secretary of Defense shall—

“(A) prioritize the mission critical installations, facilities, and activities that are subject to the greatest and most urgent risks; and

“(B) consider the cost effectiveness of risk mitigation options.

“(c) ANNUAL REPORT.—

“(1) IN GENERAL.—The Secretary of Defense shall submit a report on the efforts of the Department of Defense to mitigate the risks described in subsection (a) as part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2010 and each fiscal year thereafter (as submitted with the budget of the President under section 1105(a) of title 31, United States Code).

“(2) CONTENT.—Each report submitted under paragraph (1) shall describe the integrated prioritized plans developed under subsection (b) and the progress made toward achieving the goals established under such subsection.”

USE OF ENERGY EFFICIENT LIGHTING FIXTURES AND BULBS IN DEPARTMENT OF DEFENSE FACILITIES

Pub. L. 110-181, div. B, title XXVIII, § 2863, Jan. 28, 2008, 122 Stat. 560, provided that:

“(a) CONSTRUCTION AND ALTERATION OF BUILDINGS.—Each building constructed or significantly altered by the Secretary of Defense or the Secretary of a military department shall be equipped, to the maximum extent feasible as determined by the Secretary concerned, with lighting fixtures and bulbs that are energy efficient.

“(b) MAINTENANCE OF BUILDINGS.—Each lighting fixture or bulb that is replaced in the normal course of maintenance of buildings under the jurisdiction of the Secretary of Defense or the Secretary of a military department shall be replaced, to the maximum extent feasible as determined by the Secretary concerned, with a lighting fixture or bulb that is energy efficient.

“(c) CONSIDERATIONS.—In making a determination under this section concerning the feasibility of installing a lighting fixture or bulb that is energy efficient, the Secretary of Defense or the Secretary of a military department shall consider—

“(1) the life cycle cost effectiveness of the fixture or bulb;

“(2) the compatibility of the fixture or bulb with existing equipment;

“(3) whether use of the fixture or bulb could result in interference with productivity;

“(4) the aesthetics relating to use of the fixture or bulb; and

“(5) such other factors as the Secretary concerned determines appropriate.

“(d) ENERGY STAR.—A lighting fixture or bulb shall be treated as being energy efficient for purposes of this section if—

“(1) the fixture or bulb is certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a); or

“(2) the Secretary of Defense or the Secretary of a military department has otherwise determined that the fixture or bulb is energy efficient.

“(e) SIGNIFICANT ALTERATIONS.—A building shall be treated as being significantly altered for purposes of subsection (a) if the alteration is subject to congressional authorization under section 2802 of title 10, United States Code.

“(f) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirements of this section if the Secretary determines that such a waiver is necessary to protect the national security interests of the United States.

“(g) EFFECTIVE DATE.—The requirements of subsections (a) and (b) shall take effect one year after the date of the enactment of this Act [Jan. 28, 2008].”

REPORTING REQUIREMENTS RELATING TO RENEWABLE ENERGY USE BY DEPARTMENT OF DEFENSE TO MEET DEPARTMENT ELECTRICITY NEEDS

Pub. L. 110-181, div. B, title XXVIII, § 2864, Jan. 28, 2008, 122 Stat. 561, provided that:

“(a) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act [Jan. 28, 2008], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing the following information:

“(1) The extent to which energy from renewable energy sources is used to meet the electricity needs of the Department of Defense, to be stated as a percentage of total facility electricity use for the previous fiscal year.

“(2) The extent to which energy from renewable energy sources was procured through alternative financing methods, to be stated as a percentage of total renewable energy procurement and as a dollar amount for the previous fiscal year.

“(3) The extent to which energy from renewable energy sources was procured through the use of appropriated funds, to be stated as a percentage of total renewable energy procurement and as a dollar amount for the previous fiscal year.

“(4) A graphical illustration of energy use from renewable energy sources by the Department as a percentage of total facility electricity use over time, starting no later than fiscal year 2000 and running through fiscal year 2025, including projected future trends in renewable energy consumption through fiscal year 2025 in order to meet the goals for renewable energy set forth in section 2911(e) of title 10, United States Code, or other goals, as appropriate.

“(b) SUBSEQUENT REPORTS.—For fiscal year 2008 and each fiscal year thereafter, the information required by paragraphs (1) through (4) of subsection (a) shall be included in the Annual Energy Management Report prepared by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(c) RENEWABLE ENERGY SOURCES DEFINED.—In this section, the term ‘renewable energy sources’ has the meaning given that term in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)).”

UTILIZATION OF FUEL CELLS AS BACK-UP POWER SYSTEMS IN DEPARTMENT OF DEFENSE OPERATIONS

Pub. L. 109-364, div. A, title III, § 358, Oct. 17, 2006, 120 Stat. 2164, provided that: “The Secretary of Defense shall consider the utilization of fuel cells as replacements for current back-up power systems in a variety of Department of Defense operations and activities, in-

cluding in telecommunications networks, perimeter security, individual equipment items, and remote facilities, in order to increase the operational longevity of back-up power systems and stand-by power systems in such operations and activities.”

ENERGY EFFICIENCY IN WEAPONS PLATFORMS

Pub. L. 109-364, div. A, title III, §360(a), Oct. 17, 2006, 120 Stat. 2164, provided that: “It shall be the policy of the Department of Defense to improve the fuel efficiency of weapons platforms, consistent with mission requirements, in order to—

- “(1) enhance platform performance;
- “(2) reduce the size of the fuel logistics systems;
- “(3) reduce the burden high fuel consumption places on agility;
- “(4) reduce operating costs; and
- “(5) dampen the financial impact of volatile oil prices.”

DEPARTMENT OF DEFENSE ENERGY EFFICIENCY PROGRAM

Pub. L. 107-107, div. A, title III, §317, Dec. 28, 2001, 115 Stat. 1054, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should work to implement fuel efficiency reforms that allow for investment decisions based on the true cost of delivered fuel, strengthen the linkage between warfighting capability and fuel logistics requirements, provide high-level leadership encouraging fuel efficiency, target fuel efficiency improvements through science and technology investment, and include fuel efficiency in requirements and acquisition processes.

“(b) ENERGY EFFICIENCY PROGRAM.—The Secretary shall carry out a program to significantly improve the energy efficiency of facilities of the Department of Defense through 2010. The Secretary shall designate a senior official of the Department of Defense to be responsible for managing the program for the Department and a senior official of each military department to be responsible for managing the program for such department.

“(c) ENERGY EFFICIENCY GOALS.—The goal of the energy efficiency program shall be to achieve reductions in energy consumption by facilities of the Department of Defense as follows:

“(1) In the case of industrial and laboratory facilities, reductions in the average energy consumption per square foot of such facilities, per unit of production or other applicable unit, relative to energy consumption in 1990—

- “(A) by 20 percent by 2005; and
- “(B) by 25 percent by 2010.

“(2) In the case of other facilities, reductions in average energy consumption per gross square foot of such facilities, relative to energy consumption per gross square foot in 1985—

- “(A) by 30 percent by 2005; and
- “(B) by 35 percent by 2010.

“(d) STRATEGIES FOR IMPROVING ENERGY EFFICIENCY.—In order to achieve the goals set forth in subsection (c), the Secretary shall, to the maximum extent practicable—

“(1) purchase energy-efficient products, as so designated by the Environmental Protection Agency and the Department of Energy, and other products that are energy-efficient;

“(2) utilize energy savings performance contracts, utility energy-efficiency service contracts, and other contracts designed to achieve energy conservation;

“(3) use life-cycle cost analysis, including assessment of life-cycle energy costs, in making decisions about investments in products, services, construction, and other projects;

“(4) conduct energy efficiency audits for approximately 10 percent of all Department of Defense facilities each year;

“(5) explore opportunities for energy efficiency in industrial facilities for steam systems, boiler oper-

ation, air compressor systems, industrial processes, and fuel switching; and

“(6) retire inefficient equipment on an accelerated basis where replacement results in lower life-cycle costs.

“(e) REPORTING REQUIREMENTS.—Not later than January 1, 2002, and each January 1 thereafter through 2010, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the report required to be prepared by the Secretary pursuant to section 303 of Executive Order 13123 (64 Fed. Reg. 30851; [former] 42 U.S.C. 8251 note) regarding the progress made toward achieving the energy efficiency goals of the Department of Defense.”

§ 2912. Availability and use of energy cost savings

(a) AVAILABILITY.—An amount of the funds appropriated to the Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department, including financial benefits resulting from shared energy savings contracts entered into under section 2913 of this title, shall remain available for obligation under subsection (b) until expended, without additional authorization or appropriation.

(b) USE.—The Secretary of Defense shall provide that the amount that remains available for obligation under subsection (a) and the funds made available under section 2916(b)(2) of this title shall be used as follows:

(1) One-half of the amount shall be used for the implementation of additional energy conservation measures at buildings, facilities, or installations of the Department of Defense or related to vehicles and equipment of the Department, which are designated, in accordance with regulations prescribed by the Secretary of Defense, by the head of the department, agency, or instrumentality that realized the savings referred to in subsection (a).

(2) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

- (A) improvements to existing military family housing units;
- (B) any unspecified minor construction project that will enhance the quality of life of personnel; or
- (C) any morale, welfare, or recreation facility or service.

(c) TREATMENT OF CERTAIN FINANCIAL INCENTIVES.—Financial incentives received from gas or electric utilities under section 2913 of this title shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

(d) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this section in that fiscal year.

(Added Pub. L. 109-364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2491.)

TRANSFER OF FUNDS FOR ENERGY AND WATER
EFFICIENCY IN FEDERAL BUILDINGS

Pub. L. 109-148, div. A, title VIII, §8054, Dec. 30, 2005, 119 Stat. 2710, provided that: “Appropriations available under the heading ‘Operation and Maintenance, Defense-Wide’ for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.”

Similar provisions for specified fiscal years were contained in the following prior appropriation acts:

Pub. L. 108-287, title VIII, §8058, Aug. 5, 2004, 118 Stat. 983.

Pub. L. 108-87, title VIII, §8058, Sept. 30, 2003, 117 Stat. 1085.

Pub. L. 107-248, title VIII, §8059, Oct. 23, 2002, 116 Stat. 1550.

Pub. L. 107-117, div. A, title VIII, §8064, Jan. 10, 2002, 115 Stat. 2261.

Pub. L. 106-259, title VIII, §8063, Aug. 9, 2000, 114 Stat. 688.

Pub. L. 106-79, title VIII, §8066, Oct. 25, 1999, 113 Stat. 1245.

Pub. L. 105-262, title VIII, §8066, Oct. 17, 1998, 112 Stat. 2312.

Pub. L. 105-56, title VIII, §8072, Oct. 8, 1997, 111 Stat. 1235.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8081], Sept. 30, 1996, 110 Stat. 3009-71, 3009-104.

Pub. L. 104-61, title VIII, §8097, Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103-139, title VIII, §8149, Nov. 11, 1993, 107 Stat. 1475.

§ 2913. Energy savings contracts and activities

(a) **SHARED ENERGY SAVINGS CONTRACTS.**—(1) The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of the Department of Defense as well as the private sector.

(2) In carrying out paragraph (1), the Secretary of Defense may—

(A) request statements of qualifications (as prescribed by the Secretary of Defense), including financial and performance information, from firms engaged in providing shared energy savings contracting;

(B) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

(C) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

(D) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

(3) In carrying out paragraph (1), the Secretary may also provide for the direct negotiation, by departments, agencies, and instrumen-

talities of the Department of Defense, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

(b) **PARTICIPATION IN GAS OR ELECTRIC UTILITY PROGRAMS.**—The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation.

(c) **ACCEPTANCE OF FINANCIAL INCENTIVE, GOODS, OR SERVICES.**—The Secretary of Defense may authorize any military installation to accept any financial incentive, goods, or services generally available from a gas or electric utility, to adopt technologies and practices that the Secretary determines are in the interests of the United States and consistent with the energy performance goals for the Department of Defense.

(d) **AGREEMENTS WITH GAS OR ELECTRIC UTILITIES.**—(1) The Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation.

(2) If an agreement under this subsection provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repaid by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

(3) Subject to the availability of appropriations, repayment of costs advanced under paragraph (2) shall be made from funds available to a military department for the purchase of utility services.

(4) An agreement under this subsection shall provide that title to any energy-saving device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(Added and amended Pub. L. 109-364, div. B, title XXVIII, §§2851(a)(1), 2853, Oct. 17, 2006, 120 Stat. 2491, 2496; Pub. L. 110-140, title V, §511(c), Dec. 19, 2007, 121 Stat. 1658; Pub. L. 110-181, div. B, title XXVIII, §2861, Jan. 28, 2008, 122 Stat. 559.)

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-181, which directed the amendment of this section by striking out subsec. (e), could not be executed because subsec. (e) was previously repealed by Pub. L. 110-140, §511(c). See 2007 Amendment note below.

2007—Subsec. (e). Pub. L. 110-140 struck out heading and text of subsec. (e). Text read as follows: “When a

decision is made to award an energy savings performance contract that contains a clause setting forth a cancellation ceiling in excess of \$7,000,000, the Secretary of Defense shall submit to the appropriate committees of Congress written notification of the proposed contract and of the proposed cancellation ceiling for the contract. The notification shall include the justification for the proposed cancellation ceiling. The contract may then be awarded only after the end of the 30-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 15-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.”

2006—Subsec. (e). Pub. L. 109-364, §2853, added subsec. (e).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 2914. Energy conservation construction projects

(a) **PROJECTS AUTHORIZED.**—The Secretary of Defense may carry out a military construction project for energy conservation, not previously authorized, using funds appropriated or otherwise made available for that purpose.

(b) **CONGRESSIONAL NOTIFICATION.**—When a decision is made to carry out a project under this section, the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 109-364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2493.)

§ 2915. Facilities: use of renewable forms of energy and energy efficient products

(a) **USE OF RENEWABLE FORMS OF ENERGY ENCOURAGED.**—The Secretary of Defense shall encourage the use of energy systems using solar energy or other renewable forms of energy as a source of energy for military construction projects (including military family housing projects) and facility repairs and renovations where use of such form of energy is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section.

(b) **CONSIDERATION DURING DESIGN PHASE OF PROJECTS.**—(1) The Secretary concerned shall require that the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—

(A) is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title; and

(B) supported by the special considerations specified in subsection (c) of such section.

(2) The Secretary concerned shall require that contracts for construction resulting from such design include a requirement that energy systems using solar energy or other renewable forms of energy be installed if such systems can be shown to be cost effective.

(c) **DETERMINATION OF COST EFFECTIVENESS.**—

(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy for a facility shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system for the facility with such a system, and (B) the original investment cost of the energy system for the facility without such a system can be recovered over the expected life of the facility.

(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a facility shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

(d) **EXCEPTION TO SQUARE FEET AND COST PER SQUARE FOOT LIMITATIONS.**—In order to equip a military construction project (including a military family housing project) with heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy system using solar energy or other renewable forms of energy, the Secretary concerned may authorize an increase in any otherwise applicable limitation with respect to the number of square feet or the cost per square foot of the project by such amount as may be necessary for such purpose. Any such increase under this subsection shall be in addition to any other administrative increase in cost per square foot or variation in floor area authorized by law.

(e) **USE OF ENERGY EFFICIENT PRODUCTS IN FACILITIES.**—(1) The Secretary of Defense shall ensure, to the maximum extent practicable, that energy efficient products meeting the requirements of the Department of Defense are used in construction, repair, or renovation of facilities by or for the Department carried out under chapter 169 of this title if such products are readily available and their use is consistent with the energy performance goals and energy performance master plan for the Department developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section.

(2) For purposes of this subsection, energy efficient products may include, at a minimum, the following technologies, consistent with the products specified in paragraph (3):

(A) Roof-top solar thermal, photovoltaic, and energy reducing coating technologies.

(B) Energy management control and supervisory control and data acquisition systems.

(C) Energy efficient heating, ventilation, and air conditioning systems.

(D) Thermal windows and insulation systems.

(E) Electric meters.

(F) Lighting, equipment, and appliances that are designed to use less electricity.

(G) Hybrid vehicle plug-in charging stations.
(H) Solar-power collecting structures to shade vehicle parking areas.

(I) Wall and roof insulation systems and air infiltration-mitigation systems, such as weatherproofing.

(3) In determining the energy efficiency of products, the Secretary shall consider products that—

(A) meet or exceed Energy Star specifications; or

(B) are listed on the Federal Energy Management Program Product Energy Efficiency Recommendations product list of the Department of Energy.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 166, §2857; amended Pub. L. 97-321, title VIII, §801(b)(1), (2), Oct. 15, 1982, 96 Stat. 1571; Pub. L. 98-525, title XIV, §1405(45)(A), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 101-218, §8(b), Dec. 11, 1989, 103 Stat. 1868; Pub. L. 101-510, div. B, title XXVIII, §2852(b), Nov. 5, 1990, 104 Stat. 1804; Pub. L. 102-25, title VII, §701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered §2915 and amended Pub. L. 109-364, div. B, title XXVIII, §§2851(b)(1), (3)(A), 2854, Oct. 17, 2006, 120 Stat. 2494, 2497; Pub. L. 111-383, div. B, title XXVIII, §2832(b), Jan. 7, 2011, 124 Stat. 4468.)

AMENDMENTS

2011—Pub. L. 111-383, §2832(b)(4), substituted “Facilities: use of renewable forms of energy and energy efficient products” for “New construction: use of renewable forms of energy and energy efficient products” in section catchline.

Subsec. (a). Pub. L. 111-383, §2832(b)(1), inserted “and facility repairs and renovations” after “military family housing projects” and substituted “energy performance master plan” for “energy performance plan”.

Subsec. (b)(1). Pub. L. 111-383, §2832(b)(2), substituted “the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—” for “the design of all new facilities (including family housing) shall include consideration of energy systems using solar energy or other renewable forms of energy.” and added subpars. (A) and (B).

Subsec. (e). Pub. L. 111-383, §2832(b)(3)(A), substituted “Use of Energy Efficient Products in Facilities” for “Use of Energy Efficiency Products in New Construction” in heading.

Subsec. (e)(1). Pub. L. 111-383, §2832(b)(3)(B), substituted “construction, repair, or renovation of facilities” for “new facility construction” and “energy performance master plan” for “energy performance plan”.

Subsec. (e)(2), (3). Pub. L. 111-383, §2832(b)(3)(C), (D), added par. (2) and redesignated former par. (2) as (3).

2006—Pub. L. 109-364, §2854(b)(1), substituted “New construction: use of renewable forms of energy and energy efficient products” for “Use of renewable forms of energy in new facilities” in section catchline.

Pub. L. 109-364, §2851(b)(1), renumbered section 2857 of this title as this section.

Subsec. (a). Pub. L. 109-364, §2854(b)(2),(3)(A)(i), inserted heading and substituted “is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section” for “would be practical and economically feasible”.

Subsec. (b). Pub. L. 109-364, §2854(b)(3), inserted heading.

Subsec. (b)(1). Pub. L. 109-364, §2851(b)(3)(A)(ii), struck out “in those cases in which use of such forms

of energy has the potential for reduced energy costs” before period at end.

Subsecs. (c), (d). Pub. L. 109-364, §2854(b)(4), (5) inserted headings.

Subsec. (e). Pub. L. 109-364, §2854(a), added subsec. (e). 1991—Subsec. (c)(2). Pub. L. 102-25 inserted “(42 U.S.C. 8254(a))” after “Policy Act”.

1990—Subsec. (c)(2), (3). Pub. L. 101-510 added par. (2) and struck out former pars. (2) and (3) which read as follows:

“(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a facility shall be made using accepted life-cycle costing procedures and shall include—

“(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system with and without an energy system using solar energy or other renewable forms of energy over the expected life of the facility or during a period of 25 years, whichever is shorter;

“(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

“(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

“(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the energy system using solar energy or other renewable forms of energy shall be reduced by 10 percent to reflect an allowance for an investment cost credit.”

1989—Subsec. (b)(1). Pub. L. 101-218 substituted “reduced energy costs” for “significant savings of fossil-fuel-derived energy”.

1984—Subsec. (b)(1). Pub. L. 98-525 substituted “use of such forms of energy has the potential for” for “use of solar energy has the potential for”.

1982—Pub. L. 97-321, §801(b)(2), substituted “renewable forms of energy in new facilities” for “solar energy systems” in section catchline.

Subsec. (a). Pub. L. 97-321, §801(b)(1)(A), substituted “energy systems using solar energy or other renewable forms of energy” and “such form of energy would” for “solar energy systems” and “solar energy would”, respectively.

Subsec. (b)(1). Pub. L. 97-321, §801(b)(1)(B), substituted “energy systems using solar energy or other renewable forms of energy” for “solar energy systems” and directed that “such form of energy has” be substituted for “a solar energy has”, but “a solar energy has” did not appear in par. (1). See 1984 Amendment note above.

Subsec. (b)(2). Pub. L. 97-321, §801(b)(1)(B)(i), substituted “energy systems using solar energy or other renewable forms of energy” for “solar energy systems”.

Subsec. (c). Pub. L. 97-321, §801(b)(1)(C)–(E), substituted: in par. (1) “an energy system using solar energy or other renewable forms of energy” for “a solar energy system” before “for a facility” and in items (A) and (B) “such a system” for “a solar energy system”; in par. (2)(A) “an energy system using solar energy or other renewable forms of energy” for “a solar energy system”; and in par. (3) “energy system using solar energy or other renewable forms of energy” for “solar energy system”, respectively.

Subsec. (d). Pub. L. 97-321, §801(b)(1)(F), substituted “heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy energy system using solar energy or other renewable forms of energy” for “solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, or with a passive solar energy system”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title XIV, §1405(45)(B), Oct. 19, 1984, 98 Stat. 2625, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if it had been included in the amendments made by section 801 of Public Law 97-321.”

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2916. Sale of electricity from alternate energy and cogeneration production facilities

(a) The Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from alternate energy or cogeneration type production facilities which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy shall be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(b)(1) Proceeds from sales under subsection (a) shall be credited to the appropriation account currently available to the military department concerned for the supply of electrical energy.

(2) Subject to the availability of appropriations for this purpose, proceeds credited under paragraph (1) may be used to carry out military construction projects under the energy performance plan developed by the Secretary of Defense under section 2911(b) of this title, including minor military construction projects authorized under section 2805 of this title that are designed to increase energy conservation.

(c) Before carrying out a military construction project described in subsection (b) using proceeds from sales under subsection (a), the Secretary concerned shall notify Congress in writing of the project, the justification for the project, and the estimated cost of the project. The project may be carried out only after the end of the 21-day period beginning on the date the notification is received by Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 98-407, title VIII, § 810(a), Aug. 28, 1984, 98 Stat. 1523, § 2483; amended Pub. L. 103-160, div. B, title XXVIII, § 2802, Nov. 30, 1993, 107 Stat. 1884; renumbered § 2867, Pub. L. 105-85, div. A, title III, § 371(b)(2), Nov. 18, 1997, 111 Stat. 1705; Pub. L. 108-136, div. A, title X, § 1031(a)(49), Nov. 24, 2003, 117 Stat. 1602; renumbered § 2916 and amended Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(1), (3)(B), Oct. 17, 2006, 120 Stat. 2494.)

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

AMENDMENTS

2006—Pub. L. 109-364, § 2851(b)(1), renumbered section 2867 of this title as this section.

Subsec. (b)(2). Pub. L. 109-364, § 2851(b)(3)(B), substituted “2911(b)” for “2865(a)”.

2003—Subsec. (c). Pub. L. 108-136 inserted before period at end “or, if earlier, the end of the 14-day period

beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title”.

1997—Pub. L. 105-85 renumbered section 2483 of this title as this section.

1993—Subsec. (b). Pub. L. 103-160, § 2802(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 103-160, § 2802(b), added subsec. (c).

§ 2917. Development of geothermal energy on military lands

The Secretary of a military department may develop, or authorize the development of, any geothermal energy resource within lands under the Secretary's jurisdiction, including public lands, for the use or benefit of the Department of Defense if that development is in the public interest, as determined by the Secretary concerned, and will not deter commercial development and use of other portions of such resource if offered for leasing.

(Added Pub. L. 97-214, § 6(c)(1), July 12, 1982, 96 Stat. 172, § 2689; renumbered § 2917, Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(1), Oct. 17, 2006, 120 Stat. 2494.)

AMENDMENTS

2006—Pub. L. 109-364 renumbered section 2689 of this title as this section.

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2918. Fuel sources for heating systems; prohibition on converting certain heating facilities

(a)(1) The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of the system.

(2) The Secretary of Defense shall prescribe regulations for the determination of the life-cycle cost effectiveness of a fuel for the purposes of paragraph (1).

(b) The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary determines that the conversion—

(1) is required by the government of the country in which the facility is located; or

(2) is cost-effective over the life cycle of the facility.

(Added Pub. L. 97-214, § 6(c)(1), July 12, 1982, 96 Stat. 173, § 2690; amended Pub. L. 99-661, div. A, title XII, § 1205(a)(1), Nov. 14, 1986, 100 Stat. 3971; Pub. L. 105-85, div. A, title X, § 1041(a), Nov. 18, 1997, 111 Stat. 1885; renumbered § 2918, Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(1), Oct. 17, 2006, 120 Stat. 2494.)

AMENDMENTS

2006—Pub. L. 109-364 renumbered section 2690 of this title as this section.

1997—Subsec. (b). Pub. L. 105-85 substituted “unless the Secretary determines that the conversion—” for “unless the Secretary—” in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

“(1) determines that the conversion (A) is required by the government of the country in which the facility is located, or (B) is cost effective over the life cycle of the facility; and

“(2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.”

1986—Pub. L. 99-661 substituted “Fuel sources for heating systems; prohibition on converting certain heating facilities” for “Restriction on fuel sources for new heating systems” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) Except as provided in subsection (b), a new heating system that requires a heat input rate of fifty million British thermal units per hour or more and that uses oil or gas (or a derivative of oil or gas) as fuel may not be constructed on lands under the jurisdiction of a military department.

“(b) The Secretary of the military department concerned may waive the provisions of subsection (a) in rare and unusual cases, but such a waiver may not become effective until after the Secretary has notified the appropriate committees of Congress in writing of the waiver.

“(c) The Secretary of the military department concerned may not provide service for a new heating system in increments in order to avoid the prohibition contained in subsection (a).”

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2919. Department of Defense participation in programs for management of energy demand or reduction of energy usage during peak periods

(a) PARTICIPATION IN DEMAND RESPONSE OR LOAD MANAGEMENT PROGRAMS.—The Secretary of Defense, the Secretaries of the military departments, the heads of the Defense Agencies, and the heads of other instrumentalities of the Department of Defense are authorized to participate in demand response programs for the management of energy demand or the reduction of energy usage during peak periods conducted by any of the following parties:

- (1) An electric utility.
- (2) An independent system operator.
- (3) A State agency.
- (4) A third party entity (such as a demand response aggregator or curtailment service provider) implementing demand response programs on behalf of an electric utility, independent system operator, or State agency.

(b) TREATMENT OF CERTAIN FINANCIAL INCENTIVES.—Financial incentives received from an entity specified in subsection (a) shall be—

- (1) received as a cost reduction in the utility bill for a facility; or
- (2) deposited into the fund established under subsection (c) for use, to the extent provided for in an appropriations Act, by the military department, Defense Agency, or instrumentality receiving such financial incentive for energy management initiatives.

(c) ENERGY SAVINGS FINANCIAL INCENTIVES FUND.—There is established in the Treasury a fund to be known as the “Energy Savings Financial Incentives Fund”. The Fund shall consist of any amount deposited in the Fund pursuant to subsection (b)(2) and amounts appropriated or otherwise made available to the Fund by law.

(Added Pub. L. 111-84, div. B, title XXVIII, §2843(a), Oct. 28, 2009, 123 Stat. 2681.)

SUBCHAPTER II—ENERGY-RELATED PROCUREMENT

Sec.	
2922.	Liquid fuels and natural gas: contracts for storage, handling, or distribution.
2922a.	Contracts for energy or fuel for military installations.
2922b.	Procurement of energy systems using renewable forms of energy.
2922c.	Procurement of gasohol as motor vehicle fuel.
2922d.	Procurement of fuel derived from coal, oil shale, and tar sands.
2922e.	Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority.
2922f.	Preference for energy efficient electric equipment.
2922g.	Preference for motor vehicles using electric or hybrid propulsion systems.

AMENDMENTS

2009—Pub. L. 111-84, div. B, title XXVIII, §2844(b), Oct. 28, 2009, 123 Stat. 2682, added item 2922g.

§ 2922. Liquid fuels and natural gas: contracts for storage, handling, or distribution

(a) AUTHORITY TO CONTRACT.—The Secretary of Defense and the Secretary of a military department may each contract for storage facilities for, or the storage, handling, or distribution of, liquid fuels or natural gas.

(b) PERIOD OF CONTRACT.—The period of a contract entered into under subsection (a) may not exceed 5 years. However, the contract may provide options for the Secretary to renew the contract for additional periods of not more than 5 years each, but not for more than a total of 20 years.

(c) OPTION TO PURCHASE FACILITY.—A contract under this section may contain an option for the purchase by the United States of the facility covered by the contract at the expiration or termination of the contract, without regard to subsections (a) and (b) of section 3324 of title 31, and before approval of title to the underlying land by the Attorney General.

(Added Pub. L. 85-861, §1(46), Sept. 2, 1958, 72 Stat. 1457, §2388; amended Pub. L. 97-214, §10(a)(3), July 12, 1982, 96 Stat. 175; Pub. L. 97-258, §3(b)(6), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 97-295, §1(27), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 98-525, title XIV, §1405(56)(A), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 101-510, div. A, title XIII, §1322(a)(6), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 103-160, div. A, title VIII, §825, Nov. 30, 1993, 107 Stat. 1711; Pub. L. 103-355, title III, §3064, Oct. 13, 1994, 108 Stat. 3337; renumbered §2922, Pub. L. 109-364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2388(a)	50:981 (1st sentence).	Aug. 3, 1956, ch. 939, § 416, 70 Stat. 1018.
2388(b)	50:981 (2d sentence).	
2388(c)	50:981 (less 1st and 2d sentences and proviso of last sentence).	
2388(d)	50:981 (proviso of last sentence).	

In subsection (b), the words “section applies only” are substituted for the words “authority is limited”. The word “standards” is substituted for the word “criteria”.

In subsection (c), the words “A contract under this section” are substituted for the words “Such contracts”. The last 33 words are substituted for 50:981 (28 words before proviso of last sentence).

1982 ACT

In 10:2388(c), the title 31 citation is substituted on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted title 31.

AMENDMENTS

2006—Pub. L. 109-364 renumbered section 2388 of this title as this section.

1994—Subsec. (a). Pub. L. 103-355 substituted “liquid fuels or natural gas” for “liquid fuels and natural gas”.

1993—Pub. L. 103-160, § 825(b), substituted “Liquid fuels and natural gas: contracts for storage, handling, or distribution” for “Liquid fuels: contracts for storage, handling, and distribution” as section catchline.

Subsecs. (a), (b). Pub. L. 103-160, § 825(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) The Secretary of a military department may contract for the storage, handling, and distribution of liquid fuels for periods of not more than five years, with options to renew for additional periods of not more than five years each, but not for more than a total of 20 years.

“(b) This section applies only to facilities that conform to standards prescribed by the Secretary of Defense for protection, including dispersal, and that are in a program approved by the Secretary of Defense for the protection of petroleum facilities.”

Subsec. (c). Pub. L. 103-160, § 825(a)(2), inserted heading.

1990—Subsec. (d). Pub. L. 101-510 struck out subsec. (d) which read as follows: “The Secretary concerned shall report to the Committees on Armed Services of the Senate and the House of Representatives the terms of the contracts made under this section and the names of the contractors. The reports shall be made at such times and in such form as may be agreed upon by the Secretary and those Committees.”

1984—Subsec. (c). Pub. L. 98-525 substituted “subsections (a) and (b) of section 3324” for “section 3324(a) and (b)”.

1982—Subsec. (c). Pub. L. 97-295, § 1(27), substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)”, clarifying the ambiguity created by previous amendments by Pub. L. 97-214 and Pub. L. 97-258.

Pub. L. 97-258, § 3(b)(6), directed the substitution of “section 3324(a) and (b) of title 31” for “section 529 of title 31”, which could not be executed in view of prior substitution of language by Pub. L. 97-214.

Pub. L. 97-214, § 10(a)(3), substituted “section 3648 of the Revised Statutes (31 U.S.C. 529)” for “section 4774(d) or 9774(d) of this title, section 529 of title 31, or section 259 or 267 of title 40,”.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to

construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

PURCHASES OF GASOLIN AS FUEL FOR MOTOR VEHICLES

Pub. L. 96-107, title VIII, § 815, Nov. 9, 1979, 93 Stat. 817, which had authorized the Secretary of Defense to buy domestically produced alcohol and gasoline for use as fuel in Department of Defense motor vehicles, was repealed and reenacted as section 2398 (now 2922c) of this title by Pub. L. 97-295, §§ 1(29)(A), 6(b), Oct. 12, 1982, 96 Stat. 1293, 1315.

§ 2922a. Contracts for energy or fuel for military installations

(a) Subject to subsection (b), the Secretary of a military department may enter into contracts for periods of up to 30 years—

(1) under section 2917 of this title; and

(2) for the provision and operation of energy production facilities on real property under the Secretary’s jurisdiction or on private property and the purchase of energy produced from such facilities.

(b) A contract may be made under subsection (a) only after the approval of the proposed contract by the Secretary of Defense.

(c) The costs of contracts under this section for any year may be paid from annual appropriations for that year.

(Added Pub. L. 97-214, § 6(a)(1), July 12, 1982, 96 Stat. 171, § 2394; amended Pub. L. 97-321, title VIII, § 805(b)(3), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 100-26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-510, div. A, title XIII, § 1301(12), Nov. 5, 1990, 104 Stat. 1668; renumbered § 2922a and amended Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), (3)(C), Oct. 17, 2006, 120 Stat. 2494.)

AMENDMENTS

2006—Pub. L. 109-364, § 2851(b)(2), renumbered section 2394 of this title as this section.

Subsec. (a)(1). Pub. L. 109-364, § 2851(b)(3)(C), substituted “section 2917” for “section 2689”.

1990—Subsec. (b). Pub. L. 101-510 substituted “only after the approval of the proposed contract by the Secretary of Defense” for “only—

“(1) after the approval of the proposed contract by the Secretary of Defense; and

“(2) after the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have been notified of the terms of the proposed contract, including the dollar amount of the contract and the amount of energy or fuel to be delivered to the Government under the contract”.

1987—Subsec. (c). Pub. L. 100-26, which directed that “The term” be inserted in each paragraph after the paragraph designation and the first word after the first quotation marks in each paragraph be revised so that the initial letter of such word is lowercase, could not be executed because subsec. (c) contained no paragraphs and no quoted words. The probable intent of Congress was to amend section 2393(c) of this title.

1982—Subsec. (a). Pub. L. 97-321, § 805(b)(3)(A), substituted “subsection (b)” for “subsection (c)”.

Subsecs. (c), (d). Pub. L. 97-321, § 805(b)(3)(B), redesignated subsec. (d) as (c).

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2922b. Procurement of energy systems using renewable forms of energy

(a) In procuring energy systems the Secretary of a military department shall procure systems that use solar energy or other renewable forms of energy whenever the Secretary determines that such procurement is possible, suited to supplying the energy needs of the military department under the jurisdiction of the Secretary, consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title, and supported by the special considerations specified in subsection (c) of such section.

(b) The Secretary of Defense shall from time to time study uses for solar energy and other renewable forms of energy to determine what uses of such forms of energy may be reliable in supplying the energy needs of the Department of Defense. The Secretary of Defense, based upon the results of such studies, shall from time to time issue policy guidelines to be followed by the Secretaries of the military departments in carrying out subsection (a) and section 2915 of this title.

(Added Pub. L. 97-321, title VIII, § 801(a)(1), Oct. 15, 1982, 96 Stat. 1569, § 2394a; amended Pub. L. 98-525, title XIV, § 1405(36), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 101-510, div. A, title XIII, § 1322(a)(7), div. B, title XXVIII, § 2852(a), Nov. 5, 1990, 104 Stat. 1671, 1804; Pub. L. 102-25, title VII, § 701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered § 2922b and amended Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), (3)(D), Oct. 17, 2006, 120 Stat. 2494, 2495.)

AMENDMENTS

2006—Pub. L. 109-364, § 2851(b)(2), renumbered section 2394a of this title as this section.

Subsec. (a). Pub. L. 109-364, § 2851(b)(3)(D)(i), substituted “possible, suited” for “possible and will be cost effective, reliable, and otherwise suited” and “the jurisdiction of the Secretary, consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title, and supported by the special considerations specified in subsection (c) of such section” for “his jurisdiction”.

Subsec. (b). Pub. L. 109-364, § 2851(b)(3)(D)(ii), struck out “cost effective and” before “reliable” and substituted “2915” for “2857”.

Subsec. (c). Pub. L. 109-364, § 2851(b)(3)(D)(iii), struck out subsec. (c) which read as follows:

“(c)(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system using such a form of energy, and (B) the original investment cost of the energy system not using such a form of energy can be recovered over the expected life of the system.

“(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a system shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).”

1991—Subsec. (c)(2). Pub. L. 102-25 inserted “(42 U.S.C. 8254(a))” after “Policy Act”.

1990—Subsec. (b). Pub. L. 101-510, § 1322(a)(7), struck out “(1)” after “(b)” and struck out par. (2) which read as follows: “The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives not less often than every two

years a report on the studies conducted pursuant to paragraph (1). Each such report shall include any findings of the Secretary with respect to the use of solar energy and other renewable forms of energy in supplying the energy needs of the Department of Defense and any recommendations of the Secretary for changes in law that may be appropriate in light of such studies.”

Subsec. (c)(2), (3). Pub. L. 101-510, § 2852(a), added par. (2) and struck out former pars. (2) and (3) which read as follows:

“(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a system shall be made using accepted life-cycle costing procedures and shall include—

“(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system using solar energy or other renewable forms of energy, and not using such a form of energy, over the expected life of the system or during a period of 25 years, whichever is shorter;

“(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

“(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

“(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the energy system using solar energy or other renewable forms of energy shall be reduced by 10 percent to reflect an allowance for an investment cost credit.”

1984—Pub. L. 98-525 substituted “using” for “powered by” in section catchline.

SUBMISSION DATE FOR FIRST REPORT

Section 801(a)(3) of Pub. L. 97-321 required the first report under subsec. (b)(2) of this section to be submitted not later than two years after Oct. 15, 1982.

§ 2922c. Procurement of gasohol as motor vehicle fuel

(a) **OTHER FEDERAL FUEL PROCUREMENTS.**—Consistent with the vehicle management practices prescribed by the heads of affected departments and agencies of the Federal Government and consistent with Executive Order Number 12261, whenever the Secretary of Defense enters into a contract for the procurement of unleaded gasoline that is subject to tax under section 4081 of the Internal Revenue Code of 1986 for motor vehicles of a department or agency of the Federal Government other than the Department of Defense, the Secretary shall buy alcohol-gasoline blends containing at least 10 percent domestically produced alcohol in any case in which the price of such fuel is the same as, or lower than, the price of unleaded gasoline.

(b) **SOLICITATIONS.**—Whenever the Secretary issues a solicitation for bids to procure unleaded gasoline under subsection (a), the Secretary shall expressly include in such solicitation a request for bids on alcohol-gasoline blends containing at least 10 percent domestically produced alcohol.

(Added Pub. L. 97-295, § 1(29)(A), Oct. 12, 1982, 96 Stat. 1293, § 2398; amended Pub. L. 102-190, div. A, title VIII, § 841(a), Dec. 5, 1991, 105 Stat. 1448; Pub. L. 104-106, div. A, title X, § 1061(h), Feb. 10, 1996, 110 Stat. 443; renumbered § 2922c, Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2398	10:2388 (note).	Nov. 9, 1979, Pub. L. 96-107, § 815, 93 Stat. 817.

The word “prescribed” is substituted for “determined” because it is more appropriate. The word “Secretary” is substituted for “Department of Defense” because the responsibility is in the head of the agency. The word “shall” is substituted for “is authorized and directed” for clarity.

REFERENCES IN TEXT

Executive Order Number 12661, referred to in subsec. (a), is set out under section 8871 of Title 42, The Public Health and Welfare.

Section 4081 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 4081 of Title 26, Internal Revenue Code.

AMENDMENTS

2006—Pub. L. 109-364 renumbered section 2398 of this title as this section.

1996—Subsec. (a). Pub. L. 104-106, §1061(h)(1), (2)(A), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: “DOD MOTOR VEHICLES.—To the maximum extent feasible and consistent with overall defense needs and vehicle management practices prescribed by the Secretary of Defense, the Secretary shall make contracts, by competitive bid and subject to appropriations, to purchase domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense.”

Subsec. (b). Pub. L. 104-106, §1061(h)(2), redesignated subsec. (c) as (b) and substituted “subsection (a)” for “subsection (b)”. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 104-106, §1061(h)(2)(A), redesignated subsec. (c) as (b).

1991—Pub. L. 102-190 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title VIII, §841(b), Dec. 5, 1991, 105 Stat. 1448, provided that: “Section 2398(b) [now 2922c(a)] of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded pursuant to solicitations issued after the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 5, 1991].”

§ 2922d. Procurement of fuel derived from coal, oil shale, and tar sands

(a) **USE OF FUEL TO MEET DEPARTMENT OF DEFENSE NEEDS.**—The Secretary of Defense shall develop a strategy to use fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a “covered fuel”) that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States in order to assist in meeting the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

(b) **AUTHORITY TO PROCURE.**—The Secretary of Defense may enter into one or more contracts or other agreements (that meet the requirements of this section) to procure a covered fuel to meet one or more fuel requirements of the Department of Defense.

(c) **CLEAN FUEL REQUIREMENTS.**—A covered fuel may be procured under subsection (b) only

if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

(d) **MULTIYEAR CONTRACT AUTHORITY.**—Subject to applicable provisions of law, any contract or other agreement for the procurement of covered fuel under subsection (b) may be for one or more years at the election of the Secretary of Defense.

(e) **FUEL SOURCE ANALYSIS.**—In order to facilitate the procurement by the Department of Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive assessment of current and potential locations in the United States for the supply of covered fuel to the Department.

(Added Pub. L. 109-58, title III, §369(q)(1), Aug. 8, 2005, 119 Stat. 733, §2398a; renumbered §2922d, Pub. L. 109-364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 111-383, div. A, title X, §1075(b)(48), Jan. 7, 2011, 124 Stat. 4371.)

AMENDMENTS

2011—Subsecs. (b), (d). Pub. L. 111-383 substituted “one or more” for “1 or more” wherever appearing.

2006—Pub. L. 109-364 renumbered section 2398a of this title as this section.

§ 2922e. Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority

(a) **WAIVER AUTHORITY.**—The Secretary of Defense may, for any purchase of a defined fuel source, waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included in contracts, or regulating the performance of contracts if the Secretary determines—

(1) that market conditions for the defined fuel source have adversely affected (or will in the near future adversely affect) the acquisition of that defined fuel source by the Department of Defense; and

(2) the waiver will expedite or facilitate the acquisition of that defined fuel source for Government needs.

(b) **SCOPE OF WAIVER.**—A waiver under subsection (a) may be made with respect to a particular contract or with respect to classes of contracts. Such a waiver that is applicable to a contract for the purchase of a defined fuel source may also be made applicable to a sub-contract under that contract.

(c) **EXCHANGE AUTHORITY.**—The Secretary of Defense may acquire a defined fuel source or services related to a defined fuel source by exchange of a defined fuel source or services related to a defined fuel source.

(d) **AUTHORITY TO SELL.**—The Secretary of Defense may sell a defined fuel source of the Department of Defense if the Secretary determines that the sale would be in the public interest. The proceeds of such a sale shall be credited to appropriations of the Department of Defense for the acquisition of a defined fuel source or services related to a defined fuel source. Amounts so

credited shall be available for obligation for the same period as the appropriations to which the amounts are credited.

(e) **PETROLEUM DEFINED.**—In this section, the term “petroleum” means natural or synthetic crude, blends of natural or synthetic crude, and products refined or derived from natural or synthetic crude or from such blends.

(f) **DEFINED FUEL SOURCES.**—In this section, the term “defined fuel source” means any of the following:

- (1) Petroleum.
- (2) Natural gas.
- (3) Coal.
- (4) Coke.

(Added Pub. L. 98-525, title XII, § 1234(a), Oct. 19, 1984, 98 Stat. 2604, § 2404; amended Pub. L. 100-26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-510, div. A, title XIII, § 1322(a)(8), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 103-160, div. A, title VIII, § 826, Nov. 30, 1993, 107 Stat. 1711; Pub. L. 106-65, div. A, title VIII, § 803(a), (b)(1), Oct. 5, 1999, 113 Stat. 703; renumbered § 2922e, Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

AMENDMENTS

2006—Pub. L. 109-364 renumbered section 2404 of this title as this section.

1999—Pub. L. 106-65, § 803(b)(1), substituted “Acquisition of certain fuel sources” for “Acquisition of petroleum and natural gas” in section catchline.

Subsec. (a). Pub. L. 106-65, § 803(a)(1), substituted “a defined fuel source” for “petroleum or natural gas” in introductory provisions, “market conditions for the defined fuel source” for “petroleum market conditions or natural gas market conditions, as the case may be,” and “acquisition of that defined fuel source” for “acquisition of petroleum or acquisition of natural gas, respectively,” in par. (1), and “that defined fuel source” for “petroleum or natural gas, as the case may be,” in par. (2).

Subsec. (b). Pub. L. 106-65, § 803(a)(2), substituted “a defined fuel source” for “petroleum or natural gas” in second sentence.

Subsec. (c). Pub. L. 106-65, § 803(a)(3), which directed the substitution of “a defined fuel source or services related to a defined fuel source by exchange of a defined fuel source or services related to a defined fuel source,” for “‘petroleum’ and all that follows through the period”, was executed by substituting the material for “petroleum, petroleum-related services, natural gas, or natural gas-related services by exchange of petroleum, petroleum-related services, natural gas, or natural gas-related services.” to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 106-65, § 803(a)(4), substituted “a defined fuel source” for “petroleum or natural gas” in first sentence and “a defined fuel source or services related to a defined fuel source.” for “petroleum, petroleum-related services, natural gas, or natural gas-related services.” in second sentence.

Subsec. (f). Pub. L. 106-65, § 803(a)(5), added subsec. (f). 1993—Pub. L. 103-160, § 826(d)(2), substituted “petroleum and natural gas: authority to waive contract procedures; acquisition by exchange; sales authority” for “petroleum: authority to waive contract procedures” as section catchline.

Subsec. (a). Pub. L. 103-160, § 826(a)(1), (d)(1)(A), inserted heading, inserted “or natural gas” after “petroleum” in introductory provisions, inserted “or natural gas market conditions, as the case may be,” after “petroleum market conditions” and “or acquisition of natural gas, respectively,” after “acquisition of petroleum” in par. (1), and inserted “or natural gas, as the case may be,” after “petroleum” in par. (2).

Subsec. (b). Pub. L. 103-160, § 826(a)(2), (d)(1)(B), inserted heading and inserted “or natural gas” after “petroleum” in second sentence.

Subsec. (c). Pub. L. 103-160, § 826(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Secretary of Defense may acquire petroleum by exchange of petroleum or petroleum derivatives.”

Subsec. (d). Pub. L. 103-160, § 826(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 103-160, § 826(c)(1), (d)(1)(C), redesignated subsec. (d) as (e) and inserted heading.

1990—Subsecs. (d), (e). Pub. L. 101-510 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: “The Secretary of Defense shall notify the Congress within 10 days of the date on which any waiver is made under this section and of the reasons for the necessity of exercising such waiver.”

1987—Subsec. (e). Pub. L. 100-26 inserted “the term” after “In this section,”.

§ 2922f. Preference for energy efficient electric equipment

(a) In establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, if providing such a preference is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section.

(b) Subsection (a) applies to the following electric equipment:

- (1) Electric lamps.
- (2) Electric ballasts.
- (3) Electric motors.
- (4) Electric refrigeration equipment.

(Added Pub. L. 102-484, div. A, title III, § 384(a)(1)(A), Oct. 23, 1992, 106 Stat. 2392, § 2410c; renumbered § 2922f and amended Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), (3)(E), Oct. 17, 2006, 120 Stat. 2494, 2495.)

AMENDMENTS

2006—Pub. L. 109-364, § 2851(b)(2), renumbered section 2410c of this title as this section.

Subsec. (a). Pub. L. 109-364, § 2851(b)(3)(E), substituted “In” for “When cost effective, in” and “if providing such a preference is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section” for “as the case may be”.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title III, § 384(a)(2), Oct. 23, 1992, 106 Stat. 2393, provided that: “The amendments made by paragraph (1) [enacting this section] shall apply to procurements for which solicitations are issued on or after the date that is 120 days after the date of the enactment of this Act [Oct. 23, 1992].”

ELECTRIC LIGHTING AND REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAMS

Pub. L. 102-484, div. A, title III, § 384(b)–(d), Oct. 23, 1992, 106 Stat. 2393, provided that:

“(b) **ELECTRIC LIGHTING DEMONSTRATION PROGRAM.**—(1) The Secretary of Defense shall conduct a dem-

onstration program for using energy efficient electric lighting equipment.

“(2) The Secretary shall designate 50 facilities owned or leased by the Department of Defense for participation in the demonstration program under this subsection.

“(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the electric lighting equipment at the facility in order—

“(A) to identify any potential improvements that would increase the energy efficiency of electric lighting at that facility; and

“(B) to determine the costs of, and the savings that would result from, such improvements.

“(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of electric lighting equipment at the facility that is more energy efficient than the existing electric lighting equipment to the extent that the conversion is cost effective.

“(5) Energy efficient electric lighting equipment used under the demonstration program may include compact fluorescent lamps, energy efficient electric ballasts and fixtures, and other energy efficient electric lighting equipment.

“(c) REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient refrigeration equipment.

“(2) The Secretary shall designate 50 facilities owned or operated by the Department of Defense for participation in the demonstration program under this subsection.

“(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the refrigeration equipment at the facility in order—

“(A) to identify any potential improvements that would increase the energy efficiency of the refrigeration equipment at that facility; and

“(B) to determine the costs of, and the savings that would result from, such improvements.

“(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of refrigeration equipment at the facility that is more energy efficient than the existing refrigeration equipment to the extent that the conversion is cost effective.

“(d) GENERAL PROVISIONS FOR DEMONSTRATION PROGRAMS.—(1) The Secretary of Defense shall make the designations under subsections (b)(2) and (c)(2) not later than 180 days after the date of the enactment of this Act [Oct. 23, 1992].

“(2) The Secretary of Defense may designate a facility described in subsections (b)(2) and (c)(2) for participation in the demonstration program under subsection (b) and the demonstration program under subsection (c).

“(3) The audits required by subsections (b)(3) and (c)(3) shall be completed not later than January 1, 1994.

“(4) The head of a facility may not carry out a conversion described in subsection (b)(4) or (c)(4) if the conversion prevents the head of the facility from carrying out other improvements relating to energy efficiency that are more cost effective than that conversion.”

§ 2922g. Preference for motor vehicles using electric or hybrid propulsion systems

(a) PREFERENCE.—In leasing or procuring motor vehicles for use by a military department or Defense Agency, the Secretary of the military department or the head of the Defense Agency shall provide a preference for the lease or procurement of motor vehicles using electric or hybrid propulsion systems, including plug-in hybrid systems, if the electric or hybrid vehicles—

(1) will meet the requirements or needs of the Department of Defense; and

(2) are commercially available at a cost, including operating cost, reasonably comparable to motor vehicles containing only an internal combustion or heat engine using combustible fuel.

(b) EXCEPTION.—Subsection (a) does not apply with respect to tactical vehicles designed for use in combat.

(c) RELATION TO OTHER VEHICLE TECHNOLOGIES THAT REDUCE CONSUMPTION OF FOSSIL FUELS.—The preference required by subsection (a) does not preclude the Secretary of Defense from authorizing the Secretary of a military department or head of a Defense Agency to provide a preference for another vehicle technology that reduces the consumption of fossil fuels if the Secretary of Defense determines that the technology is consistent with the energy performance goals and plan of the Department required by section 2911 of this title.

(d) HYBRID DEFINED.—In this section, the term “hybrid”, with respect to a motor vehicle, means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(1) an internal combustion or heat engine using combustible fuel; and

(2) a rechargeable energy storage system.

(Added Pub. L. 111-84, div. B, title XXVIII, § 2844(a), Oct. 28, 2009, 123 Stat. 2682.)

REGULATIONS

Pub. L. 111-84, div. B, title XXVIII, § 2844(c), Oct. 28, 2009, 123 Stat. 2682, provided that: “The Secretary of Defense shall prescribe regulations to implement section 2922g of title 10, United States Code, as added by subsection (a), within one year after the date of the enactment of this Act [Oct. 28, 2009].”

SUBCHAPTER III—GENERAL PROVISIONS

Sec.

2925. Annual Department of Defense energy management reports.

AMENDMENTS

2008—Pub. L. 110-417, [div. A], title III, § 331(b)(2), Oct. 14, 2008, 122 Stat. 4420, added item 2925 and struck out former item 2925 “Annual report”.

§ 2925. Annual Department of Defense energy management reports

(a) ANNUAL REPORT RELATED TO INSTALLATIONS ENERGY MANAGEMENT.—As part of the annual submission of the energy performance goals for the Department of Defense under section 2911 of this title, the Secretary of Defense shall submit a report containing the following:

(1) A description of the progress made to achieve the goals of the Energy Policy Act of 2005 (Public Law 109-58), section 2911(e) of this title, section 533 of the National Energy Conservation Policy Act (42 U.S.C. 8259b),¹ the Energy Independence and Security Act of 2007 (Public Law 110-140), and the energy performance goals for the Department of Defense during the preceding fiscal year.

(2) A table detailing funding, by account, for all energy projects funded through appropriations.

¹ See References in Text note below.

(3) A table listing all energy projects financed through third party financing mechanisms (including energy savings performance contracts, enhanced use leases, utility energy service contracts, utility privatization agreements, and other contractual mechanisms), the duration of each such mechanism, an estimate of the financial obligation incurred through the duration of each such mechanism, and the estimated payback period for each such mechanism.

(4) A description of the actions taken to implement the energy performance master plan in effect under section 2911 of this title and carry out this chapter during the preceding fiscal year.

(5) A description of the energy savings realized from such actions.

(6) An estimate of the types and quantities of energy consumed by the Department of Defense and members of the armed forces and civilian personnel residing or working on military installations during the preceding fiscal year, including a breakdown of energy consumption by user groups and types of energy, energy costs, and the quantities of renewable energy produced or procured by the Department.

(7) A description of the types and amount of financial incentives received under section 2913 of this title during the preceding fiscal year and the appropriation account or accounts to which the incentives were credited.

(8) A description and estimate of the progress made by the military departments to meet the certification requirements for sustainable green-building standards in construction and major renovations as required by section 433 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 121 Stat. 1612).

(9) A description of steps taken to determine best practices for measuring energy consumption in Department of Defense facilities and installations, in order to use the data for better energy management.

(10) A description of any other issues and strategies the Secretary determines relevant to a comprehensive and renewable energy policy.

(b) ANNUAL REPORT RELATED TO OPERATIONAL ENERGY.—(1) Simultaneous with the annual report required by subsection (a), the Secretary of Defense, acting through the Assistant Secretary of Defense for Operational Energy Plans and Programs, shall submit to the congressional defense committees a report on operational energy management and the implementation of the operational energy strategy established pursuant to section 139b¹ of this title.

(2) The annual report under this subsection shall address and include the following:

(A) Statistical information on operational energy demands, in terms of expenditures and consumption, for the preceding five fiscal years, including funding made available in regular defense appropriations Acts and any supplemental appropriation Acts.

(B) An estimate of operational energy demands for the current fiscal year and next fiscal year, including funding requested to meet

operational energy demands in the budget submitted to Congress under section 1105 of title 31 and in any supplemental requests.

(C) A description of each initiative related to the operational energy strategy and a summary of funds appropriated for each initiative in the previous fiscal year and current fiscal year and requested for each initiative for the next five fiscal years.

(D) An evaluation of progress made by the Department of Defense—

(i) in implementing the operational energy strategy, including the progress of key initiatives and technology investments related to operational energy demand and management; and

(ii) in meeting the operational energy goals set forth in the strategy.

(E) Such recommendations as the Assistant Secretary considers appropriate for additional changes in organization or authority within the Department of Defense to enable further implementation of the energy strategy and such other comments and recommendations as the Assistant Secretary considers appropriate.

(3) If a report under this subsection is submitted in a classified form, the Secretary shall concurrently submit to the congressional defense committees an unclassified version of the information required by this subsection.

(4) In this subsection, the term “operational energy” means the energy required for training, moving, and sustaining military forces and weapons platforms for military operations. The term includes energy used by tactical power systems and generators and weapons platforms.

(Added Pub. L. 109-364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2493; amended Pub. L. 110-417, [div. A], title III, §331(a), (b)(1), div. B, title XXVIII, §2832, Oct. 14, 2008, 122 Stat. 4419, 4420, 4732; Pub. L. 111-84, div. A, title III, §332(a), Oct. 28, 2009, 123 Stat. 2257; Pub. L. 111-383, div. A, title IX, §901(a)(2), div. B, title XXVIII, §2832(c)(1), Jan. 7, 2011, 124 Stat. 4317, 4469.)

REFERENCES IN TEXT

The Energy Policy Act of 2005, referred to in subsec. (a)(1), is Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 594, which enacted chapter 149 of Title 42, The Public Health and Welfare, and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of Title 42 and Tables.

Section 533 of the National Energy Conservation Policy Act (42 U.S.C. 8259b), referred to in subsec. (a)(1), probably means section 553 of the National Energy Conservation Policy Act, which is classified to section 8259b of Title 42, The Public Health and Welfare. The Act does not contain a section 533.

The Energy Independence and Security Act of 2007, referred to in subsec. (a)(1), (8), is Pub. L. 110-140, Dec. 19, 2007, 121 Stat. 1492, which enacted chapter 152 of Title 42, The Public Health and Welfare, and enacted and amended numerous other sections and notes in the Code. Section 433 of the Act amended sections 6832 and 6834 of Title 42 and enacted provisions set out as a note under section 6834 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 17001 of Title 42 and Tables.

Section 139b of this title, referred to in subsec. (b)(1), was renumbered as section 138c of this title by Pub. L.

111-383, div. A, title IX, §901(b)(7), Jan. 7, 2011, 124 Stat. 4320.

AMENDMENTS

2011—Subsec. (a)(4). Pub. L. 111-383, §2832(c)(1), substituted “energy performance master plan” for “energy performance plan”.

2009—Subsec. (a). Pub. L. 111-84, in par. (1), inserted “section 2911(e) of this title, section 533 of the National Energy Conservation Policy Act (42 U.S.C. 8259b),” after “(Public Law 109-58),” added pars. (2), (3), (9), and (10), and redesignated former pars. (2) to (6) as (4) to (8), respectively.

2008—Pub. L. 110-417, §331(b)(1), amended section catchline generally. Prior to amendment, catchline read as follows: “Annual report”.

Subsec. (a). Pub. L. 110-417, §2832, in heading substituted “Annual Report Related to Installations Energy Management” for “Report Required”, in par. (1) inserted “, the Energy Independence and Security Act of 2007 (Public Law 110-140),” after “(Public Law 109-58),” and added par. (6).

Subsec. (b). Pub. L. 110-417, §331(a), added subsec. (b) and struck out former subsec. (b) which related to requirements for the initial report to be submitted by the Secretary of Defense.

CHANGE OF NAME

“Assistant Secretary of Defense for Operational Energy Plans and Programs” substituted for “Director of Operational Energy Plans and Programs” in subsec. (b)(1) and “Assistant Secretary” substituted for “Director” in two places in subsec. (b)(2)(E) on authority of section 901(a) of Pub. L. 111-383, set out as a note under section 131 of this title.

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AMENDMENTS

2003—Pub. L. 108-136, div. A, title V, §576(a)(2), Nov. 24, 2003, 117 Stat. 1487, added item for chapter 375.

2000—Pub. L. 106-398, §1 [[div. A], title III, §344(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-71, added item for chapter 434.

1999—Pub. L. 106-65, div. A, title VII, §721(c)(7), Oct. 5, 1999, 113 Stat. 695, substituted “Disposition” for “Inquests; Disposition” and “4712” for “4711” in item for chapter 445.

1994—Pub. L. 103-337, div. A, title XVI, §1672(a), Oct. 5, 1994, 108 Stat. 3015, struck out items for chapters 337 “Appointments as Reserve Officers”, 361 “Separation for Various Reasons”, and 363 “Separation or Transfer to Retired Reserve”.

1993—Pub. L. 103-160, div. A, title VIII, §828(b)(2), Nov. 30, 1993, 107 Stat. 1714, struck out item for chapter 431 “Industrial Mobilization, Research, and Development”.

1987—Pub. L. 100-26, §7(j)(10)(A), Apr. 21, 1987, 101 Stat. 283, substituted “3011” for “3010” as section number in item for chapter 303.

1980—Pub. L. 96-513, title V, §502(1), 512(1), Dec. 12, 1980, 94 Stat. 2909, 2929, substituted “3010” for “3011” as section number in item for chapter 303, and struck out item for chapter 359 “Separation from Regular Army for Substandard Performance of Duty”, item for chapter 360 “Separation from Regular Army for Moral or Professional Dereliction or in Interests of National Security”, and item for chapter 365 “Retirement for Age”.

1968—Pub. L. 90-377, §3, July 5, 1968, 82 Stat. 288, struck out item for chapter 351 “United States Disciplinary Barracks”.

Pub. L. 90-235, §8(5), Jan. 2, 1968, 81 Stat. 764, struck out item for chapter 347 “The Uniform”.

1964—Pub. L. 88-647, title III, §301(11), Oct. 13, 1964, 78 Stat. 1072, struck out item for chapter 405 “Reserve Officers’ Training Corps”.

1960—Pub. L. 86-616, §§2(b), 3(b), July 12, 1960, 74 Stat. 388, 390, substituted “Substandard Performance of Duty” for “Failure to Meet Standards” in item for of chapter 359 and added item for chapter 360.

1958—Pub. L. 85-861, §1(95), Sept. 2, 1958, 72 Stat. 1487, substituted “3841” for “[No present sections]” in item for chapter 363.

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